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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,978	02/17/2004	Peter M. Bonutti	782-A03-024	9101
33771	7590	05/14/2010		
PAUL D. BIANCO Fleit Gibbons Gutman Bongini & Bianco PL 21355 EAST DIXIE HIGHWAY SUITE 115 MIAMI, FL 33180			EXAMINER MASHACK, MARK F	
			ART UNIT	PAPER NUMBER
			3773	
			MAIL DATE	DELIVERY MODE
			05/14/2010 PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



U.S. DEPARTMENT OF COMMERCE  
PATENT AND TRADEMARK OFFICE

## EXAMINER'S CASE ACTION WORKSHEET

Copy (Ctrl+C)	Palm Transaction Code 1340 84598377310779978		Legal Instrument Examiner
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CHECK TYPE OF ACTION

DATE OF COUNT

<input type="checkbox"/> Non-Final Rejection	<input type="checkbox"/> Restriction/Election Only	<input checked="" type="checkbox"/> Final Rejection
<input type="checkbox"/> Ex Parte Quayle	<input type="checkbox"/> Allowance	<input type="checkbox"/> Advisory Action
<input type="checkbox"/> Examiner's Answer	<input type="checkbox"/> Reply Brief Noted	<input type="checkbox"/> Non-Entry of Reply Brief
<input type="checkbox"/> Defective Notice of Appeal	<input type="checkbox"/> Interference Disposal SPE _____ (Approval for Disposal)	<input type="checkbox"/> Suspension (Examiner-Initiated) SPE _____ (initial)
<input type="checkbox"/> Defective Appeal Brief	<input type="checkbox"/> SIR Disposal (use only after FAOM)	<input type="checkbox"/> Supplemental Examiner's Amendment
<input type="checkbox"/> Miscellaneous Office Letter (With Shortened Statutory Period Set)	<input type="checkbox"/> Notice of Non-Responsive Amendment (With One Month Time Period set)	<input type="checkbox"/> Miscellaneous Office Letter (No Response Period Set)
<input type="checkbox"/> Abandonment after BPAI Decision	<input type="checkbox"/> Supplemental Action	<input type="checkbox"/> Response to Rule 312 Amendment
<input type="checkbox"/> Letter Restarting Period for Response (e.g., Missing References)	<input type="checkbox"/> Interview Summary	<input type="checkbox"/> Authorization to Change Previous Office Action SPE: _____ (Initial)
<input type="checkbox"/> Abandonment	<input type="checkbox"/> Express Abandonment Date: _____	<input type="checkbox"/> Other

Examiner's Name: MARK MASHACK

AU: 3773

### Office Action Summary

**Application No.**

10/779,978

**Applicant(s)**

BONUTTI ET AL.

**Examiner**

MARK MASHACK

**Art Unit**

3773

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/1/2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7, 8, 10, 14-20, 22-25, 35-39, 42-46, 48 and 52-58 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

- 6) ☒ Claim(s) 1-5, 7, 8, 10, 14-20, 22-25, 35-39, 42-46, 48 and 52-58 is/are rejected.

- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**


- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

<b>Index of Claims</b> 	<b>Application/Control No.</b> 10779978	<b>Applicant(s)/Patent Under Reexamination</b> BONUTTI ET AL.
	<b>Examiner</b> MARK MASHACK	<b>Art Unit</b> 3773

✓	<b>Rejected</b>	-	<b>Cancelled</b>	N	<b>Non-Elected</b>	A	<b>Appeal</b>
=	<b>Allowed</b>	+	<b>Restricted</b>	I	<b>Interference</b>	O	<b>Objected</b>

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant						<input type="checkbox"/> CPA		<input type="checkbox"/> T.D.		<input type="checkbox"/> R.1.47	
CLAIM		DATE									
Final	Original	06/08/2008	01/29/2009	09/17/2009	04/28/2010						
	1	✓	✓	✓	✓						
	2	✓	✓	✓	✓						
	3	✓	✓	✓	✓						
	4	✓	✓	✓	✓						
	5	✓	✓	✓	✓						
	6	-	-	-	-						
	7	✓	✓	✓	✓						
	8	✓	✓	✓	✓						
	9	-	-	-	-						
	10	✓	✓	✓	✓						
	11	-	-	-	-						
	12	-	-	-	-						
	13	-	-	-	-						
	14	✓	✓	✓	✓						
	15	✓	✓	✓	✓						
	16	✓	✓	✓	✓						
	17	✓	✓	✓	✓						
	18	✓	✓	✓	✓						
	19	✓	✓	✓	✓						
	20	✓	✓	✓	✓						
	21	-	-	-	✓						
	22	✓	✓	✓	✓						
	23	✓	✓	✓	✓						
	24	✓	✓	✓	✓						
	25	✓	✓	✓	✓						
	26	-	-	-	-						
	27	-	-	-	-						
	28	-	-	-	-						
	29	-	-	-	-						
	30	-	-	-	-						
	31	-	-	-	-						
	32	-	-	-	-						
	33	-	-	-	-						
	34	-	-	-	-						
	35	✓	✓	✓	✓						
	36	✓	✓	✓	✓						

<b>Index of Claims</b>  	<b>Application/Control No.</b>  10779978	<b>Applicant(s)/Patent Under Reexamination</b>  BONUTTI ET AL.
	<b>Examiner</b>  MARK MASHACK	<b>Art Unit</b>  3773

✓	<b>Rejected</b>	-	<b>Cancelled</b>	N	<b>Non-Elected</b>	A	<b>Appeal</b>
=	<b>Allowed</b>	÷	<b>Restricted</b>	I	<b>Interference</b>	O	<b>Objected</b>

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CLAIM		DATE									
Final	Original	06/08/2008	01/29/2009	09/17/2009	04/28/2010						
	37	✓	✓	✓	✓						
	38	✓	✓	✓	✓						
	39	✓	✓	✓	✓						
	40	=	-	-	-						
	41	-	-	-	-						
	42	✓	✓	✓	✓						
	43	✓	✓	✓	✓						
	44	✓	✓	✓	✓						
	45	✓	✓	✓	✓						
	46	✓	✓	✓	✓						
	47	-	-	-	-						
	48	✓	✓	✓	✓						
	49	-	-	-	-						
	50	-	-	-	-						
	51	-	-	-	-						
	52		✓	✓	✓						
	53		✓	✓	✓						
	54		✓	✓	✓						
	55		✓	✓	✓						
	56		✓	✓	✓						
	57		✓	✓	✓						
	58		✓	✓	✓						